



4310-HC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL01000. L158480000.EU0000 241A; N-86674; 12-08807; MO#4500046714; TAS: 14X5232]

Notice of Realty Action: Modified Competitive Auction of Public Lands in Lincoln County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer three parcels of land in one sale totaling approximately 26.39 acres in Lincoln County, Nevada, by modified competitive sale. Bidding on the subject parcels will begin at not less than the appraised fair market value (FMV) of \$15,800. The BLM has examined these parcels and found them suitable for disposal by modified competitive sale. The sale will be subject to the applicable provisions of Sections 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713, and the regulations at 43 CFR 2710.

DATES: Comments regarding the proposed sale must be received by the BLM on or before [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER]. A sale would not be held prior to 60 days following publication of this Notice of Realty Action.

ADDRESS: Written comments concerning the proposed sale should be sent to the BLM Field Manager, Schell Field Office, HC 33 Box 33500, 702 North Industrial Way, Ely, NV 89301, or e-mail to clongine@blm.gov.

FOR FURTHER INFORMATION CONTACT: Cynthia Longinetti at 775-289-1809 or clongine@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The three parcels of land proposed as one sale total approximately 26.39 acres. The parcels are located approximately 35 miles northeast of Pioche, Nevada in Camp Valley. From U.S. Highway 93, take State Highway 322 (Mt. Wilson Back Country Byway) approximately 20 miles to Ursine, Nevada and Spring Valley State Park, and then travel an additional 15 miles (approximate) on a gravel road to the sale parcels. The parcels are legally described as:

Mount Diablo Meridian

T. 4 N., R. 69 E.,

sec. 3, lots 7, 8, 9, and 12;

sec. 10, lots 2 and 4.

The area described contains 26.39 acres, more or less, in Lincoln County, Nevada.

A map delineating the proposed sale is available for public review at the BLM Ely District website: http://www.blm.gov/nv/st/en/fo/ely_field_office.html, and at the BLM Ely District Office at 702 N. Industrial Way, Ely, Nevada 89301.

Consistent with Section 203 of FLPMA, these tracts of public land meet the disposal criteria in the approved land use plan and are in conformance with the BLM Ely District Final Environmental Impact Statement (EIS) and Record of Decision (ROD) approved on November 30, 2007, and Resource Management Plan (RMP), approved on August 20, 2008. The proposed actions conform to the RMP as referenced in the Lands and Realty objectives LR-8 and LR-16. The lands are also identified as suitable for disposal and are in compliance with Public Law 108-424, the Lincoln County Conservation, Recreation, and Development Act (LCCRDA), enacted on November 30, 2004. All of these documents, a map, and the approved appraisal report for the proposed sale are available for review at the BLM Ely District Office. An Environmental Preliminary Analysis Real Property was signed by the BLM Ely District Manager on July 20, 2010. A Determination of National Environmental Policy Act (NEPA) Adequacy was approved on November 8, 2010.

No significant resource values will be affected by the disposal of these parcels. These parcels are not required for any federal purposes.

The sale, as proposed, would be a public, oral auction and would be held at the BLM Caliente Field Office, 1400 South Front Street, Caliente, Nevada. Bidding on the sale parcel will begin at the established FMV.

The Lincoln County Commission supports a request by Lee Pearson for a modified-competitive sale of the 26.39 acre parcels. Mr. Pearson presently resides and conducts a cattle ranching operation on the private land that abuts the boundaries of the sale parcel. In consideration of the historical uses of the parcels, to protect on-going uses, assure compatibility of possible uses with adjacent lands, and to avoid dislocation of

existing users, the BLM authorized officer has determined Lee Pearson as the designated bidder for the parcels.

The modified-competitive sale parcel has been examined and found to be consistent with and suitable for disposal using modified-competitive sale procedures at 43 CFR 2710.0-6 (c)(1)(3)(ii), which allows an existing user to meet the high bid at the public sale. The procedure will allow for limited competitive sales to protect on-going uses, to assure compatibility of the possible uses with adjacent lands, and avoid dislocation of existing users. In accordance with 43 CFR 2711.3-2 (a)(1)(i)(iii)(2)(c) the authorized officer has determined this method of sale for historical users. Modified-competitive bidding includes, but is not limited to, offering a designated bidder the right to meet the highest bid or the right of first refusal to purchase the lands at FMV. The highest bid among the qualified bids received for this sale will be declared. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

Modified-competitive sale procedures: The designated bidder or his authorized representative must be present at the oral bid sale. Should the designated bidder appoint a representative for this sale, they must submit in writing a notarized document identifying the level of capacity given to their designated representative. This document must be signed by both parties. The designated bidder or his authorized representative will have the opportunity to meet and accept the high bid as the purchase price of the parcel or to refuse that offer. Should the designated bidder or his authorized representative fail to exercise the preference consideration offered by the authorized officer to meet the high bid as the purchase price at the sale, the high bid will be declared the successful bid in accordance with regulations at 43 CFR 2711.3-2(c), using the

procedures specified in 43 CFR 2711.3-1(d), competitive bidding procedures, where the highest qualifying bid received shall be publicly declared by the authorized officer.

Acceptance or rejection of any offer to purchase will be in accordance with the procedures set forth in 43 CFR 2711.3-1 (f) and (g) of this subpart.

The bid deposit payment and the final payment must be in the form of a bank draft, cashier's check, certified check or U.S. postal money order, or any combination thereof, and made payable in U.S. dollars to the Department of the Interior – Bureau of Land Management, immediately following the close of the sale. Personal or company checks will not be accepted. No contractual or other rights against the United States may accrue until BLM officially accepts the offer to purchase and the full bid price is paid.

Full payment must be made within 180 days from the date the sale offer is received. Failure to pay the full purchase price within 180 days of the sale will disqualify the sale offer. Failure to pay the full purchase price within the allotted time will result in forfeiture of the bid deposit in accordance with 43 CFR 2711.3-1(d). No exceptions will be made. The BLM cannot accept the full price at any time following the expiration of the 180th day after the sale offer(s). Arrangements for electronic fund transfer to BLM shall be made a minimum of two weeks prior to final payment.

The Camp Valley (Lincoln County) Mineral Report dated July 11, 2011, describes the mineral interests pertaining to these lands.

The LCCRDA P.L. 108-424, Section 102(g)(1), states that Federal land described in subsection (a) is withdrawn from all forms of entry and appropriation under the public land laws and mining laws and that the land segregation will terminate when the land is sold. Additionally, in accordance with 43 CFR 2807.15 and 2886.15, upon publication

of this Notice of Realty Action and until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants.

Terms and Conditions:

1. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).
2. All minerals, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe shall be reserved to the United States.
3. The parcels are subject to all valid existing rights.
4. All existing and valid land uses, including livestock grazing leases are reserved, unless waived.
5. By accepting this patent, the patentee agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in:

(1) violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (2) judgments, claims or demands of any kind assessed against the United States; (3) costs, expenses, or damages of any kind incurred by the United States; (4) releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States; (5) activities by which solid waste or hazardous substances or waste, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction.

6. Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9620(h) (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1988, 100 Stat. 1670, notice is hereby given that the described lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property.

No warranty of any kind, express or implied, is given by the United States, its officers or employees, as to title, access to or from the above described parcels of land,

whether or to what extent the land may be developed, its physical condition, or past, present or future uses, or any other circumstances or condition. The conveyance of any such parcels will not be on a contingency basis. However, to the extent required by law, the parcels are subject to the requirements of Section 120(h) of the CERCLA.

Bidders must demonstrate to the satisfaction of the authorized officer that they meet the requirements of 43 CFR 2711.2 to hold real property in the United States. Failure to submit documentation to the BLM within 30 days from receipt of the high bidder letter shall result in the cancellation of the bid.

Parcels may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcels. Encumbrances of record, appearing in the case files for the parcels proposed for sale, are available for review during business hours, 7:30 a.m. to 4:30 p.m., Pacific Time (PT), Monday through Friday, at the Ely District Office, except during federally recognized holidays.

The parcels are subject to limitations prescribed by law and regulation, and prior to patent issuance, a holder of any right-of-way within the parcels may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable, or to an easement.

The BLM will notify valid existing right-of-way holders of their ability to convert their compliant rights-of-way to perpetual rights-of-way or easements. Each valid holder will be notified in writing of their rights and then must apply for the conversion of their current authorization.

Unless other satisfactory arrangements are approved in advance by a BLM authorized officer, conveyance of title shall be through the use of escrow. Designation of the escrow agent shall be through mutual agreement between the BLM and the prospective patentee, and costs of escrow shall be borne by the prospective patentee.

Requests for all escrow instructions must be received by the Ely District Office prior to 30 days before the scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the Ely District Office 30 days from the date on the high bidder letter by 4:30 p.m. Pacific Time. Name changes will not be accepted after that date. To submit a name change, the apparent high bidder(s) must submit the name change on the Certificate of Eligibility form to the Ely District Office in writing. Certificate of Eligibility forms are available at the Ely District Office and at the BLM website at: <http://www.blm.gov/nv> (click on the Ely District).

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of the exchange is the bidder's responsibility in accordance with Internal Revenue Service regulations. The BLM is not a party to any 1031 Exchange.

All sales are made in accordance with and subject to the governing provisions of law and applicable regulations.

In accordance with 43 CFR 2711.3-1(f), the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would be inconsistent with any law, or for other reasons.

If there are no acceptable bids, the parcel(s) may remain available for sale on a continuing basis in accordance with the competitive sale procedures described in 43 CFR 2711.3-1 without further legal notice.

In order to determine the FMV, certain assumptions may have been made concerning the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations and policies that may affect the subject lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It will be the responsibility of the purchaser to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should also make themselves aware of any Federal or State law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Only written comments will be considered properly filed. Before including your address, phone number, email address, or other personal identifying information in your comment—you should be aware that your entire comment, including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any adverse comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711)

Michael E. Abel
Acting Schell Field Manager

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